HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. S/S No. 192/2006

Durga Prasad Singh

vs

District Magistrate,

Nainital

Approved for reporting

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~~Not approved for reporting~~

Date of decision 23-2-2006

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 192 of 2006 (SS)

Durga Prasad Singh s/o Sri Ram Pher Singh
Survey Lekhpal in Survey and Settlement Unit,
Udham Singh Nagar ..... Petitioner

Versus

1. District Magistrate, Nainital
2. Officer in-charge, Land Records,
   Nainital ..... Respondents

Sri Manoj Tewari, counsel for the petitioner.
Standing counsel, for the respondents.

Dated: 23.2.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Manoj Tiwari, counsel for the petitioner and Standing counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the suspension order dated 29.12.2005.

Briefly stated the petitioner was appointed Survey Lekhpal on 17.5.1991 by the Assistant Record Officer, Survey Unit, Obra Sonbhadra and he is thereafter serving in the said capacity. The petitioner was posted as Survey Lekhpal in the office of Survey Naib Tehsildar Ram Nagar from 1998 to May 2001. Respondent no. 2 issued an order dated 29.12.2005 whereby petitioner has been placed under suspension on the ground that he has entered the name of a person belonging to

general category in revenue record in place of a person belonging to scheduled caste category.

The contention of the petitioner is that he has been suspended in a routine and cursory manner without considering the gravity of charge and nature of evidence.

The learned counsel for the petitioner placed reliance in the case S.K. Goel. vs. State of Uttaranchal & another, 2005 (2) U.D. 11, where a Division Bench of this High Court has held as under:

"It is not necessary to place a Government employee under suspension in every case where disciplinary proceedings are contemplated. The continuance of the employee in the same post or at the same station may be considered likely to influence or prejudice the enquiry and the disciplinary proceedings. Sometimes, in view of the nature of the post held by the officer and the nature of the irregularities alleged, the very continuance of the officer in service during the discipolinary proceedings may be considered undesirable. In the first case, the proper conduct of enquiry and disciplinary proceedings can be ensured by a mere transfer of the officer. Only in the second case the officer need be placed under suspension. Hence, it is incumbent upon the disciplinary authority to consider whether a transfer of the officer will be sufficient or whether suspension itself is required. Only when the disciplinary authority is satisfied that suspension itself is required, an officer can be placed under suspension .If and when the suspension is questioned in a court of law, the disciplinary authority is bound to show that he had arrived at a satisfaction that a mere transfer was not sufficient and that suspension itself was required. If the disciplinary authority

fails to show that he has properly considered the mater and was satisfied that suspension itself was required, the order of suspension is liable to be declared illegal and arbitrary and quashed on that basis. It should be remembered that though suspension is not a punishment, it visits the employee with serious civil consequences and loss of reputation and prestige. Hence, an order of suspension should not be passed lightly, causally or without proper application of mind."

In view of the principle of law laid down above, the respondents are directed to complete the enquiry against the petitioner within two months after obtaining the certified copy of this order. The order of suspension shall remain in abeyance during this period.

Accordingly, the writ petition is disposed of. No order as to costs.

Dated: 23.2.2006 **Rajesh Tandon, J.**

*Dhyani